

110TH CONGRESS
1ST SESSION

H. R. 1397

To provide for immigration relief in the case of certain immigrants who
are innocent victims of immigration fraud.

IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2007

Mr. HONDA introduced the following bill; which was referred to the Committee
on the Judiciary

A BILL

To provide for immigration relief in the case of certain
immigrants who are innocent victims of immigration fraud.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. IMMIGRATION RELIEF FOR INNOCENT VICTIMS**

4 **OF IMMIGRATION FRAUD.**

5 (a) IN GENERAL.—

6 (1) RELIEF UPON APPROVAL OF APPLICA-

7 TION.—If an alien, upon application to an appro-

8 priate immigration official, establishes to the satis-

9 faction of such official that such alien is an eligible

10 alien (as defined in subsection (b)) and is, but for

1 the specified immigration fraud, admissible to the
2 United States as an immigrant and is not removable
3 from the United States, such official shall provide
4 immigration relief for such alien under subsection
5 (c).

6 (2) RELIEF PENDING APPROVAL.—In the case
7 of an eligible alien, any pending proceedings pro-
8 viding for revocation of adjustment of status, revoca-
9 tion of naturalization, or removal with respect to
10 such eligible alien shall be suspended in order to
11 provide such alien with a reasonable opportunity to
12 apply for immigration relief under this section and
13 during the pendency of the application for such re-
14 lief.

15 (3) APPROPRIATE IMMIGRATION OFFICIAL.—
16 For purposes of this section, the term “appropriate
17 immigration official” means, in the case of an alien
18 in removal proceedings, the immigration judge who
19 is presiding over such proceedings, or otherwise the
20 Secretary of Homeland Security.

21 (b) ELIGIBLE ALIEN, SPECIFIED IMMIGRATION
22 FRAUD DEFINED.—For purposes of this section:

23 (1) ELIGIBLE ALIEN.—

24 (A) IN GENERAL.—The term “eligible
25 alien” means an alien—

1 (i) who obtained status as a non-
2 immigrant on or after January 1, 1980,
3 and who, at the time of obtaining such sta-
4 tus, was a national of the Republic of
5 Korea;

6 (ii) who applied, before January 1,
7 1999, through one or more immigration
8 brokers for adjustment of such status to
9 that of the status of an alien lawfully ad-
10 mitted to the United States for permanent
11 residence, and who applied through the
12 Immigration and Naturalization office lo-
13 cated in San Jose, California;

14 (iii) whose application for adjustment
15 of status described in clause (ii) was ap-
16 proved as a result of bribery by such immi-
17 gration brokers or a supervisor of the Im-
18 migration and Naturalization Service for
19 such office; and

20 (iv) who had no actual knowledge of
21 the specified immigration fraud at the time
22 of such adjustment.

23 (B) TREATMENT OF SPOUSES AND CHIL-
24 DREN.—Such term includes an alien who ob-
25 tained lawful permanent resident status as the

1 spouse or child of an eligible alien described in
2 paragraph (1).

3 (2) SPECIFIED IMMIGRATION FRAUD.—The
4 term “specified immigration fraud” means the brib-
5 ery described in paragraph (1)(A)(iii).

6 (c) FORM OF IMMIGRATION RELIEF.—

7 (1) IN GENERAL.—If an application of an eligi-
8 ble alien under subsection (a) is approved, then—

9 (A) the specified immigration fraud shall
10 not be considered in determining the admissi-
11 bility or removeability of such alien; and

12 (B) the alien’s status shall be restored as
13 if the original adjustment of status described in
14 subsection (b)(1)(C) had been lawful, in accord-
15 ance with the succeeding provisions of this sub-
16 section.

17 (2) RESTORATION OF STATUS TO LAWFUL PER-
18 MANENT RESIDENT; CANCELLATION OF ORDER OF
19 REMOVAL.—In the case of an approved application
20 for an alien whose adjustment of status to lawful
21 permanent resident status was rescinded or who was
22 ordered removed solely as a result of the specified
23 immigration fraud, such rescission shall be vitiated
24 or such order shall be cancelled and the status of
25 such alien shall be restored to that of an alien law-

1 fully admitted for permanent residence. Such res-
2 toration or cancellation shall be effective as of the
3 date of such rescission or order of removal.

4 (3) RESTORATION OF NATURALIZATION.—In
5 the case of an eligible alien who has been naturalized
6 as a citizen of the United States and whose natu-
7 ralization was revoked solely as a result of the speci-
8 fied immigration fraud, such revocation shall be viti-
9 ated and such alien's citizenship status shall be re-
10 stored. Such restoration shall be effective as of the
11 date of such revocation.

12 (4) TRAVEL TO AND PAROLE INTO THE UNITED
13 STATES FOR ELIGIBLE ALIENS WHO HAVE DE-
14 PARTED.—In the case of an eligible alien who has
15 been removed, or has voluntarily departed, from the
16 United States in connection with charges relating to
17 specified immigration fraud, the Secretary shall pa-
18 role such alien into the United States for the pur-
19 pose of filing an application for immigration relief
20 under this section. The Secretary of State shall pro-
21 vide such alien with appropriate travel documents in
22 order to travel to the United States for such parole.

23 (d) PROCEDURES AND DEFINITIONS.—

24 (1) PROCEDURES FOR APPLICATION.—An alien
25 seeking immigration relief under this section shall

1 submit an application at such time (consistent with
2 paragraph (3)), in such manner, and containing
3 such information as the Secretary shall require. No
4 fee shall be charged in connection with such applica-
5 tion.

6 (2) BURDEN OF PROOF.—For purposes of sub-
7 section (b)(1)(A)(iv), the alien shall be presumed not
8 to have actual knowledge of the specified immigra-
9 tion fraud and the Secretary shall have the burden
10 of proving such knowledge.

11 (3) DEADLINE FOR APPLICATION.—An applica-
12 tion under paragraph (1) shall be submitted not
13 later than the date that is five years after the date
14 of the enactment of this Act, except that the Sec-
15 retary may extend such deadline for an additional
16 period not to exceed five years.

17 (4) NO REDUCTION IN NUMBER OF IMMIGRANT
18 VISAS AVAILABLE.—The Secretary of State shall not
19 reduce the number of immigrant visas authorized to
20 be issued under the Immigration and Nationality
21 Act (8 U.S.C. 1101 et seq.) if an application of an
22 eligible alien for immigration relief under this sec-
23 tion is approved.

24 (5) APPLICATION OF OTHER DEFINITIONS.—
25 For purposes of this section and except as otherwise

1 specifically provided, the term “Secretary” means
2 the Secretary of Homeland Security and the defini-
3 tions contained in the Immigration and Nationality
4 Act shall apply in the administration of this section.
5 Nothing in this section shall be construed to repeal,
6 amend, alter, modify, affect, or restrict the powers,
7 duties, functions, or authority of the Secretary in
8 the administration and enforcement of such Act or
9 any other law relating to immigration, nationality, or
10 naturalization. The fact that an alien may be eligible
11 for immigration relief under this section shall not
12 preclude such alien from seeking immigration relief
13 under any other provision of law for which such
14 alien may be eligible.

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